# Washington, Wednesday, December 11, 1940

# The President

## EXECUTIVE ORDER

DEFINITION OF NONCOMBATANT TRAINING AND SERVICE

1. By virtue of authority contained in section 5 (g) of the Selective Training and Service Act of 1940, approved September 16, 1940, whereby it is provided:

"Nothing contained in this Act shall be construed to require any person to be subject to combatant training and service in the land or naval forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form. Any such person claiming such exemption from combatant training and service because of such conscientious objections whose claim is sustained by the local board shall, if he is inducted into the land or naval forces under this Act, be assigned to noncombatant service as defined by the President, or shall, if he is found to be conscientiously opposed to participation in such noncombatant service, in lieu of such induction, be assigned to work of national importance under civilian direction.

I hereby declare that the following military service is noncombatant service:

(1) Service in any unit which is unarmed at all times.

(2) Service in the Medical Department wherever performed.

(3) Service in any unit or installation the primary function of which does not require the use of arms in combat, provided the individual's assignment within such unit or installation does not require him to bear arms or to be trained in their use.

I further declare than noncombatant training consists of training in all military subjects except marksmanship, combat firing, target practices, and those subjects relating to the employment of weapons.

2. Persons inducted into the military service under the above act whose claim

to exemption from combatant training and service because of conscientious objection has been sustained will receive noncombatant training and be assigned to noncombatant military service as defined in paragraph one.

#### FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
December 6, 1940.
[No. 8606]

[F. R. Doc. 40-5473; Filed, December 9, 1940; 2:43 p. m.]

# Rules, Regulations, Orders

#### TITLE 6-AGRICULTURAL CREDIT

CHAPTER I—FARM CREDIT ADMINISTRATION

# [FCA 210]

PART 14—JOHNT STOCK LAND BANKS

SALES OF ASSETS BY JOINT STOCK LAND BANKS TO STOCKHOLDERS, DIRECTORS, OFFICERS, OR ELIPLOYEES

# DECEMBER 10, 1940.

Title 6, Code of Federal Regulations, is amended by adding a new section, § 14.5 to read as follows:

§ 14.5 Sales of assets by joint stock land banks to stockholders, directors, officers, or employees. No joint stock land bank shall knowingly sell or otherwise dispose of any of its assets, directly or indirectly, to a stockholder, director, officer, or employee of the bank, or to a corporation, firm, syndicate, partnership, or other entity or group, in which any stockholder, director, officer, or employee of the bank has an interest, unless the prior written approval of the Farm Credit Administration is obtained. (Sec. 6, 47 Stat. 14, 12 U.S.C. 665)

[SEAL] J. R. ISLEIB,
Acting Land Bank Commissioner,

[F. R. Doc. 40-5498; Filed, December 10, 1940; 11:51 a. m.]

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CHAPTER VII—AGRICULTURAL ADJUSTMENT ADMINISTRATION

[ACP-1941-3]

Part 701-1941 Agricultural Conserva-TION PROGRAM BULLETIN

Pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act (49 Stat. 1148), as amended, the 1941 Agricultural Conservation Program is amended as follows:

- 1. Subparagraphs (1), (6), (7), (9), (10), and (11), paragraph (a), § 701.201, are amended to read as follows:
- (1) National goal. The 1941 national goal for corn is 88,000,000 to 90,000,000 acres.
- (6) Commercial corn area or commercial corn-producing area means counties designated by the Agricultural Adjustment Administration with the approval of the Secretary. This area will include counties which have produced an average of at least 450 bushels of corn per farm and 4 bushels of corn per acre of farm land during the past 10 years. It will also include bordering counties containing townships producing and likely to produce an average of 450 bushels of corn per farm and 4 bushels of corn per acre of farm land. The area will include counties in the States of Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, Ohio, Pennsylvania, South Dakota and Wisconsin.
- (7) Non-corn-allotment farm means a farm in the commercial corn area (a) for which no corn acreage allotment is determined or (b) for which a corn acreage allotment of less than 10 acres is determined and the acreage planted to corn is greater than such allotment or (c) a farm in Delaware, Maryland, or Pennsylvania for which a corn acreage allotment is determined and the county

committee approves, in accordance with instructions issued by the Agricultural Adjustment Administration, the classification of such farm for the purposes of the 1941 program as a non-corn allotment farm.

(9) Usual acreage of corn. Usual acreages of corn shall be determined for all non-corn-allotment farms in the commercial corn area of Delaware, Maryland, and Pennsylvania on which the normal acreage planted to corn is more than 10 4901 acres. The usual acreage of corn shall be determined on the basis of tillable 4902 acreage, crop rotation practices, and the past acreages of corn for the farm, with adjustments of not to exceed 50 percent for types of soil and topography. The usual acreage for any farm shall compare with the usual acreages for other farms in the same community which are similar with respect to the foregoing factors. The sum of the usual corn acreages determined for such farms in a county shall not exceed their proportionate part of the average acreage planted to corn and diverted from the production of corn in the county for the ten years, 1930-1939, adjusted for trends.

(10) Payment. (Corn-allotment farms) 9 cents per bushel of the normal yield of corn for the farm for each acre in the corn acreage allotment.

(11) Deduction. (i) (Corn-allotment farms) 50 cents per bushel of the normal yield for the farm for each acre planted to corn in excess of the corn acreage allotment.

- (ii) (Non-corn-allotment farms in the commercial corn area) 50 cents per bushel of the normal yield for the farm for each acre planted to corn in excess of 10 acres or, in Delaware, Maryland, and Pennsylvania, for each acre planted to corn in excess of the larger of (a) 10 acres or (b) the usual acreage of
- 2. Subparagraphs (1), (7), and (8) paragraph (b), § 701.201, are amended to read as follows:
- (1) National goal. The 1941 national goal for cotton is 27,000,000 to 29,000,-000 acres.
- (7) Payment. 1.37 cents per pound of the normal yield of cotton for the farm for each acre in its cotton acreage allotment.
- (8) Deduction. 4 cents per pound of the normal yield of cotton for the farm for each acre planted to cotton in excess of its cotton acreage allotment or, in the case of a farm on which cotton is planted in 1941 and on which cotton was not planted in 1938, 1939, or 1940, for each acre in excess of its permitted acreage.
- 3. Subparagraphs (1), (8), and (9), paragraph (c), § 701.201, are amended to read as follows:
- (1) National goal. The 1941 national goal for peanuts for market is 1,575,000 to 1,625,000 acres.

<sup>1</sup>5 F.R. 2915.

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- (8) Payment. \$2.25 per ton of the | Florida Type 62 tobacco is 2,500 to 3,000 | normal yield of peanuts for the farm for acres. each acre in its peanut acreage allotment.
- (9) Deduction. (For farms in commercial peanut area) \$30.00 per ton of the normal yield for the farm for each acre of peanuts for market in excess of its peanut acreage allotment.
- 4. Subparagraphs (1), (8), and (9), paragraph (d), § 701.201, are amended to read as follows:
- (1) National goal. The 1941 national goal for potatoes is 3,100,000 to 3,300,000 acres.
- (8) Payment. 2.3 cents per bushel of the normal yield of potatoes for the farm for each acre in its potato allotment.
- (9) Deduction. (Farms in commercial potato counties) 30 cents per bushel of the normal yield for the farm for each acre planted to potatoes in excess of the larger of its potato acreage allotment or three acres, or, on a farm for which no allotment is determined, in areas designated by the Agricultural Adjustment Administration where more than three acres of potatoes are grown for home use on a substantial number of farms, for each acre planted to potatoes for market in excess of three acres.
- 5. Subparagraphs (1), (5), and (6), paragraph (e), § 701.201, are amended to read as follows:
- (1) National goal. The 1941 national goal for rice is 880,000 to 900,000 acres.
- (5) Payment. 5.5 cents per 100 pounds of the normal yield per acre of rice for the farm for each acre in its rice acreage allotment.
- (6) Deduction. 60 cents per 100 pounds of the normal yield for the farm for each acre planted to rice in excess of its rice acreage allotment: Provided. That an acreage not in excess of the larger of three acres or three percent of the allotment, unintentionally planted in excess of the allotment, shall not be considered as planted to rice if disposed of in a manner and within the time specified by the regional director: Provided further, That all or any part of any acreage totally destroyed by flood, insects, or any other cause beyond the control of the operator, which is later replaced by other rice acreage planted on the farm, may be considered as not having been planted.
- 6. Subparagraphs (1), (5), and (6), paragraph (f), § 701.201, are amended to read as follows:
- (1) National goal. The 1941 national goal for Burley tobacco is 370,000 to 390,000 acres; flue-cured tobacco is 750,000 to 800,000 acres; dark air-cured tobacco is 32,000 to 36,000 acres; firecured tobacco is 80,000 to 90,000 acres; Virginia sun-cured tobacco is 3,000 to 3,200 acres; cigar-filler tobacco, Type 41. is 30,000 to 31,000 acres; cigar-filler and binder tobacco (other than Types 41 and | be considered as not having been 45) is 60,000 to 63,000 acres; Georgia-planted.

(5) Payment. The following number of cents per pound of the normal yield per acre of tobacco for the farm for each acre in its tobacco acreage allotment for each of the following kinds of tobacco:

Burley. 0.8 Flue-cured \_. Dark air-cured\_ Fire-cured\_\_\_ \_\_ 1.5 Virginia sun-cured Cigar-filler tobacco Type 41\_ . 8 Cigar-filler and binder (except Types 41 Georgia-Florida Type 62\_\_\_\_

- (6) Deduction. 8 cents per pound of the normal yield for the farm for each acre of tobacco harvested in excess of the applicable tobacco acreage allotment.
- 7. Subparagraphs (2), (4), (5), and (6), paragraph (g), § 701.201, are amended to read as follows:
- (2) Commercial vegetable county means a county for which the 1938 or 1939 acreage of commercial vegetables (other than Irish potatoes) was 400 acres or more planted on farms on which three acres or more of commercial vegetables were planted: Provided, That upon request of the State committee and approval by the regional director any other county may be designated as a commercial vegetable county: Provided further. That where the Agricultural Adjustment Administration finds that because of the concentration of a large number of persons under the Defense Program an acreage of vegetables substantially larger than the allotment for the county is required for market locally, such county may be designated as a non-commercialvegetable county.
- (4) Commercial vegetables means the planted acreage of annual vegetable or truck crops and the harvested acreage of perennial vegetables, of which any portion of the production is sold to persons not living on the farm except (1) such crops grown in home gardens for use on the farm; (2) potatoes in commercial potato counties; (3) vegetables for processing in areas where it is determined by the Agricultural Adjustment Administration that such vegetables are not sold in direct competition with fresh vegetables and it is administratively practicable to distinguish between crops for processing and for other purposes; (4) dried beans, cowpeas, blackeyed peas, bulbs and flowers, and watermelons; and (5) sweet potatoes, strawberries, and cantaloupes, except in areas designated by the Agricultural Adjustment Administration upon recommendation of the State committee: Provided, That all or any part of any vegetable acreage totally destroyed by flood, freeze, insects, or any other cause beyond the control of the operator, which is later replaced by other acreage planted to vegetables on the farm, may

- (5) Payment. \$1.30 for each acre in the commercial vegetable acreage allotment determined for the farm, or, if the acreage of commercial vegetables is less than 80 percent of the farm's commercial vegetable acreage allotment, for an acreage equal to 125 percent of the acreage of commercial vegetables unless the county committee finds that the acreage of commercial vegetables is less than 80 percent of such allotment because of flood or drought.
- (6) Deduction. (i) (Farms in the vegetable allotment area) \$20.00 per acre of land devoted to commercial vegetables in excess of the larger of the commercial vegetable acreage allotment determined for the farm or three acres.
- (ii) (Farms in commercial vegetable counties in non-vegetable allotment areas having a special crop acreage allotment) \$20.00 per acre of land devoted to commercial vegetables in excess of the larger of the usual acreage of commercial vegetables determined for the farm or three acres.
- 8. Subparagraphs (9) and (10), paragraph (h), § 701.201, are amended to read as follows:
- (9) Payment. (Wheat-allotment farms) 8 cents per bushel of the normal yield of wheat for the farm for each acre in its wheat acreage allotment.
- (10) Deduction. (i) (Wheat-allotment farms) 50 cents per bushel of the normal yield for the farm for each acre planted to wheat in excess of its wheat acreage allotment.
- (ii) (Non-wheat-allotment farms) 50 cents per bushel of the normal yield for the farm for each acre of wheat harvested for grain or for any other purpose after reaching maturity in excess of its wheat acreage allotment or 10 acres, whichever is larger, in Area A; in excess of the usual acreage of wheat for the farm or 10 acres, whichever is larger, in Area B in the Western Region and in Area C; in excess of the largest of (a) the usual acreage of wheat for the farm. (b) 10 acres, or (c) if no wheat is marketed from the farm, three acres per family on the farm in Area B in the Southern and East Central Regions.
- 9. Subparagraphs (1), (8), and (9), paragraph (i), § 701.201, are amended to read as follows:
- (1) National goal. The 1941 national goal for total soil-depleting crops is 270,000,000 to 285,000,000 acres.
- (8) Payment. (Farms in Area A. except non-general-allotment farms) \$1.10 per acre, adjusted for the productivity of the farm, for each acre in the total soildepleting acreage allotment determined for the farm in excess of the sum of (i) the special crop acreages with respect to which a payment is computed for the farm and (ii) the acreage of sugar beets planted for harvest in 1941 for the extraction of sugar.
- (9) Deductions. (i) (Farms in Area A, except non-general-allotment farms)

tivity of the farm, for each acre of the mendation of the State committee the soil-depleting acreage in excess of the rate shall be 25 cents per acre for each sum of the total soil-depleting acreage allotment determined for the farm and the acreages with respect to which deductions are computed under paragraphs (a) to (h), inclusive, of this section.

(ii) (Non-general-allotment farms in Area A) \$8.00 per acre, adjusted for the productivity of the farm, for each acre of the soil-depleting acreage in excess of the sum of (1) 20 acres, or in areas designated under subparagraph (6) (c), 30 acres. (2) the cotton acreage allotment or permitted acreage determined for the farm, and (3) the acreages with respect to which deductions are computed under paragraphs (a) to (h), inclusive, of this section.

(iii) (Farms in Area B for which a total soil-depleting acreage allotment is determined) \$5.00 for each acre classified as soil-depleting in excess of the larger of (1) the total soil-depleting acreage allotment determined for the farm plus the acreages with respect to which deductions are computed under paragraphs (a) to (h), inclusive, of this section, or (2) 30 acres plus the acreages on which cotton is planted or tobacco is harvested: Provided, That upon recommendation of the State committee and approval of the Agricultural Adjustment Administration the rate of deduction per acre in any county, group of counties, or State where the average productivity is high, shall, for any farm for which a wheat payment is computed, be the larger of \$5.00 or 32 cents times the normal yield per acre of wheat for the farm.

- 10. Subparagraphs (3) and (4), paragraph (j), § 701.201, are amended to read as follows:
- (3) Payment. 15 cents per acre for each acre of restoration land designated for the farm.
- (4) Deduction. \$3.00 for each acre of restoration land and any land previously designated as restoration land which has been reclassified as noncrop pasture or range land which is plowed or tilled in 1941 for any purpose other than tillage practices to protect the land from wind erosion or tillage operations in connection with the seeding of an approved non-depleting cover crop or permanent grass mixture.
- 11. Subparagraphs (1), (2), (3), (6), and (7), paragraph (k), § 701.201, are amended to read as follows:
- (1) Deduction for failure to prevent wind or water erosion. \$1.00 for each acre of land in an area designated by the Agricultural Adjustment Administration as subject to serious wind or water erosion hazards with respect to which there are not adopted in 1941 methods recommended by the county committee for the prevention of wind or required acreage of erosion-resisting water erosion or both: *Provided*, That in crops and land uses be less than 15 per-

time wind or water erosion control methods recommended by the county committee are not carried out in 1941 by the date specified by the committee.

(2) Deduction for breaking out native sod. \$3.00 for each acre of native sod, or any other land on which a permanent vegetative cover has been established, broken out in any area designated by the Agricultural Adjustment Administration as an area subject to serious wind erosion or as an area containing large acreages unsuited to continuing production of cultivated crops, during the 1941 program year, less the acreage broken out with the approval of the county committee for the planting of forest trees or as a good farming practice for which an acreage of cropland other than restoration land is restored to permanent vegetative cover.

(3) Failure to plant 80 percent of allotment. Upon recommendation of the State committee and approval by the Agricultural Adjustment Administration, for areas in which there is wide fluctuation from year to year in the acreage planted to corn, cotton, peanuts, potatoes, rice, tobacco, wheat, or general soil-depleting crops on a substantial number of farms, if the acreage of any such crop is less than 80 percent of the acreage allotment for such crop, payment will be computed on an acreage equal to 125 percent of the acreage of such crop, unless the county committee finds that failure to have 80 percent of such acreage allotment was due to flood. drought, hail, or plant bed diseases.

(6) Minimum acreage of erosion-resisting crops. In New Jersey, New York, and Pennsylvania, except counties in the commercial corn area, and in other counties, groups of counties, or States, upon recommendation of the State committee and approval of the Agricultural Adjustment Administration, a deduction of \$5.00 shall be made for each acre by which the acreage of erosion-resisting crops and land uses on the farm is less than the required acreage of such crops and land uses. Such deduction shall be made in the case of farms for which a special soil-depleting acreage allotment (other than a commercial vegetable allotment) is determined. The required acreage of erosion-resisting crops and land uses shall be a percentage of the cropland on the farm equal to the percentage obtained by dividing the acreage of cropland in the county, group of counties, or State which is in excess of the total soil-depleting allotment under the 1940 program for such area by the total acreage of cropland on all farms in the area or, where such percentage is not available, a comparable percentage determined by the Agricultural Adjustment committee and approved by the State Administration, but in no case will the

\$8.00 per acre, adjusted for the produc- Adjustment Administration upon recom- | cropland on the farm. Erosion-resisting crops and land uses for any county or State shall be determined by the State committee, with the approval of the Agricultural Adjustment Administration, and may include only cropland which is devoted in the program year to one or more of the following crops or uses:

> Biennial or perennial legumes. Perennial grasses. Lespedeza.

Crotalaria. Ryegrass.

Green manure crops.

Cowpeas.

Natal grass.

Winter legumes.

Soybeans from which seed are not harvested by mechanical means.

Sweet clover.

Fall seeded small grains not classified as soil-depleting.

Velvet beans.

Forest trees.

Fallow rice land.

Land on which approved terraces are constructed and no soil-depleting crop is grown.

Such acreage may be planted on land from which a soil-depleting crop is harvested under the 1941 program, but acreages of these crops interplanted with soil-depleting row crops shall not be counted.

(7) Minimum soil-building performance. Notwithstanding any provisions herein, in counties, groups of counties, or States in Area B or C, upon recommendation of the State committee and approval of the Agricultural Adjustment Administration, the payment made with respect to special soil-depleting acreage allotments shall not exceed a percentage of the net payment earned with respect to such allotments equal to the percentage of that part of the soil-building allowance computed under subparagraphs (1) to (7), inclusive, of paragraph (d), § 701.202, which is earned for the farm, except that such limitation will not be applicable if the amount of the soil-building payment earned equals or exceeds the total special crop payment earned. In determining performance under this subparagraph, in areas designated by the Agricultural Adjustment Administration where the allowance on noncrop open pasture is the major portion of the soil-building allowance on a substantial number of farms, the allowance on noncrop open pasture shall not be included. This subparagraph is applicable only to farms for which a special soil-depleting acreage allotment is determined. In areas where this provision is in effect the rate under subparagraph (2), paragrapt (d), § 701.202, shall be 60 cents per acre. The amount of the deductions made from farm payments under this provision, as estimated by the Agricultural Adjustment Administration, shall be available for use in the area where counties designated by the Agricultural cent nor more than 30 percent of the deducted for administrative expenses

and for conservation materials for will not be made and for which no deduction from payments will be made if the material is properly used.

- 12. Subparagraphs (1), (2), (3), (4), (5), (6), and (7), paragraph (d), § 701.202, are amended to read as follows:
- (1) 50 cents per acre of cropland in the farm in excess of the total soil-depleting acreage allotment for the farm (applicable only to farms in Area A);
- (2) \$1.80 per acre of commercial orchards on the farm, except that in the Southern Region (where the commercial orchard acreage is not excluded from the acreage of cropland) the rate shall be \$1.35 per acre;
- (3) (i) 2 cents per acre of noncrop open pasture land in the farm, plus 90 cents for each animal unit of grazing capacity (on a 12-month basis) of such pasture, in the North Central Region, Kansas, California, Oklahoma and Texas: Provided. That for any county or group of counties where the grazing capacity of the noncrop open pasture land is reasonably uniform such payment may, upon approval of the Agricultural Adjustment Administration, be computed at a flat rate per acre of noncrop open pasture land, such rate to be not greater than the average amount of payment per acre of noncrop open pasture land determined for such county or group of counties on the basis of the foregoing rate: Provided further, That the amounts computed under this subdivision shall not be less than 8 cents times the number of such acres or 2,000 acres, whichever is smaller: And provided further, That such payment may be computed at a flat rate for each farm in any county, which rate shall be determined for the farm by the county committee on the basis of the above rates:
- (ii) 3 cents per acre of noncrop open pasture land, plus 70 cents for each animal unit of grazing capacity (on a 12month basis) of such pasture, in North Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, Idaho, Oregon, and Washington: Provided, That for any county or group of counties where the grazing capacity of the noncrop open pasture land is reasonably uniform such payment may, upon approval of the Agricultural Adjustment Administration, be computed at a flat rate per acre of noncrop open pasture land, such rate to be not greater than the average amount of payment per acre of noncrop pasture land determined for such county or group of counties on the basis of the foregoing rate: Provided further, That the amounts computed under this subdivision shall not be less than 8 cents times the number of such acres or 2.000 acres, whichever is smaller: And provided further, That such payment may be computed at a flat rate for each farm in any county, which rate shall be determinted for the farm by the county committee on the basis of the above rates.

- half of the number of acres of cropland in the farm, which is capable of maintaining during the normal pasture season at least one animal unit for each five acres of such pasture land, in the East Central Region and in States in the Southern Region other than Texas and Oklahoma:
- (iv) 40 cents per acre of fenced noncrop open pasture land in excess of onehalf of the number of acres of cropland in the farm, which is capable of maintaining during the normal pasture season at least one animal unit for each five acres of such pasture land, in the Northeast Region: Provided, That upon recommendation of the State committee and approval by the Agricultural Adjustment Administration this item may be reduced for all farms in any county, group of counties, or State and that part of the reduction which it is estimated by the Agricultural Adjustment Administration would have been earned had this item not been reduced may be allotted by the county committee to farmers who wish to carry out pasture improvement or plant forest trees in addition to the allowance otherwise available under this section.
- (4) 70 cents per acre of cropland in excess of the sum of (1) the special crop acreages with respect to which payments are computed other than commercial vegetable acreage and (2) the acreage of sugar beets planted for harvest in 1941 for the extraction of sugar, and sugarcane grown for harvest in 1941 for the extraction of sugar (applicable only to farms in Area B and Area C);
- (5) 70 cents for each acre with respect to which a commercial vegetable payment is computed under section 1 (applicable only to farms in the vegetable allotment area in Area A);
- (6) \$1.10 per acre, adjusted for the productivity of the farm, for each acre in the total soil-depleting acreage allotment for the farm in excess of the sum of (1) the special crop acreages with respect to which payments are computed for the farm and (2) the acreage of sugar beets planted for harvest in 1941 for the extraction of sugar (applicable only to non-general-allotment farms in Area A):
- (7) 45 cents per acre for each acre of restoration land for the farm; and
- 13. Subparagraphs (24) and (55), paragraph (f), § 701.202, are amended to read as follows:
- (24) Construction of ditching with a depth of one foot and a top width of four feet, or the equivalent cross-section thereof, for the diversion and spreading of flood water or well water (applicable only in arid and semi-arid areas)-50 cents per 100 linear feet.
- (55) Performance of such supplemental conservation practices not normally carried out on the farm as are cept when used as a nurse crop for perenrecommended by the State committee nial legumes, perennial grasses (other

(iii) 25 cents per acre of fenced non- and approved by the Agricultural Adjustwhich a soil-building practice payment | crop open pasture land in excess of one- | ment Administration on any farm where 50 percent or more of the sum of the cropland and commercial orchard land as determined at the beginning of the program year is devoted to perennial grasses or perennial legumes-\$50.00 or one-half of the soil-building allowance. whichever is smaller.

> On any farm where the maximum payment that may be earned does not exceed \$20.00 (excluding any allowance for planting forest trees), any part of the soil-building allowance may be earned under this practice.

- 14. Paragraph (f), § 701.202, is amended by adding at the end thereof the heading "Miscellaneous" and new subparagraphs (56) and (57) as follows:
- (56) Conservation of noncrop open pasture land by limited grazing and supplemental practices. For grazing all of the noncrop open pasture land on a farm (in areas designated by the Agricultural Adjustment Administration as areas in which because of seasonal conditions and characteristics of predominate vegetative cover natural reseeding by deferred grazing is not practicable) at a rate of stocking which will, over a period of years, result in an improvement of the density and palatability of the native grasses without injury to tree growth or watershed—all of the soilbuilding allowance which is computed under subparagraph (3), paragraph (d), § 701.202; Provided, That payment for this practice shall not exceed the value of supplemental practices carried out which are designated by the county committee prior to institution in accordance with instructions issued with the approval of the Agricultural Adjustment Administration and for which paypment otherwise will not be made.
- (57) With prior approval of the county committee, constructing or reconstructing farm ditches (including lateral and lead ditches) for which proper outlets are provided. Payment will not be made with respect to any ditch unless the amount of dirt removed therefrom represents an amount at least equivalent to an average depth of one foot and unless adequate provision is made for the entrance of water into and out of the ditch. No credit will be allowed for the amount of dirt removed from that portion of any ditch which is bordered by waste or noncropland, or from any ditch which is wholly or partially maintained by any Federal, State, or county appropriation.

This practice shall be applicable only in Nansemond, Norfolk, and Princess Anne Counties, Virginia, in which soil acidity is high and drainage is required for the growth of winter cover crops-5 cents per cubic yard of dirt removed.

- 15. Paragraph (p), § 701.203, is amended to read as follows:
- (p) Flax planted for any purpose ex-

clover in areas other than Texas, which are seeded in a workmanlike manner or when matched acre for acre by such crops seeded alone in a workmanlike manner.

- 16. Paragraph (d), § 701.215, is amended to read as follows:
- (d) Combination with range program. The Range Conservation Program may be combined with the Agricultural Conservation Program for 1941 in any State or area upon recommendation of the State committee and approval of the Agricultural Adjustment Administration, in which case range land shall be treated as noncrop open pasture land and the range-building practices shall be treated as incorporated in the Agricultural Conservation Program. In any area where the programs are combined, the payment in connection with soil-building practices for noncrop open pasture land in any case where the acreage of such land is in excess of 640 acres shall not be computed on more than one animal unit for each 10 acres of such pasture, nor on more than 60 acres for each animal unit of grazing capacity, and the soil-building allowance shall include the allowance computed for mountain meadow land.

Done at Washington, D. C., this 9th day of December 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD, Secretary of Agriculture.

[F. R. Doc. 40-5493; Filed, December 10, 1940; 11:33 a, m.]

### [RCP-1941-1]

PART 705-1941 RANGE CONSERVATION PROGRAM BULLETIN

Pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act (49 Stat. 1148), as amended, the 1941 Range Conservation Program is amended as follows:

1. The introductory paragraph of § 705.201 is amended to read as follows:

Within the limits of the range-building allowance and subject to the conditions hereinafter set forth, payment will be made for carrying out on range land during a period of not more than 12 months ending between June 30 and December 31, 1941, inclusive, such of the range-building practices listed in this section as are recommended for the State by the State committee and approved by the Regional Director, and as are approved by the county committee for the ranching unit prior to their institution. The rates of payment listed below are the

clover in Texas or red clover or alsike of payment for any practice included may, for any State or area within a State, be adjusted downward by the State committee with the approval of the Agricultural Adjustment Administration in order to reflect relatively lower costs or desirability of the practice.

- 2. Paragraph (d), § 705.201, is amended to read as follows:
- (d) Contour listing, furrowing, or subsoiling. For listing, furrowing, or subsoiling range land on the contour or for subsoiling mountain meadow land: 2.5 cents per 100 linear feet.
- 3. Section 705.202 is amended to read as follows:

§ 705.202 Range-building allowance-(a) Acreage and grazing capacity. In Texas, Oklahoma, Kansas, Nebraska, South Dakota, and California, the rangebuilding allowance shall be 2 cents per acre of range land in the ranching unit plus 90 cents times the grazing capacity of the range land; and in Arizona, New Mexico, Nevada, Utah, Colorado, Washington, Oregon, Idaho, Montana, Wyoming, and North Dakota, the rangebuilding allowance shall be 3 cents per acre of range land in the ranching unit plus 70 cents times the grazing capacity of the range land: Provided, however, That in either area the grazing capacity item shall not be calculated on more than one animal unit for each 10 acres of range land in the ranching unit, and the acreage item shall not be calculated on more than 60 acres for each animal unit of grazing capacity established for the ranching unit: Provided further, That the amount computed under this paragraph shall not be less than 8 cents times the number of such acres or 2,000 acres, whichever is smaller.

(b) Mountain meadow land. In addition, the range-building allowance shall include 30 cents times the number of acres of mountain meadow land in the ranching unit from which hay is normally harvested for feeding on the ranching unit to range livestock owned by the operator of the ranching unit. The counties in which this additional allowance is made shall be those mountain counties in the Western Region for which, upon the basis of the recommendations of the county and State committees, the regional director determines the reseeding and erosion control practices specified in § 705.201 to be necessary and effective in promoting range conservation: Provided, however, The mountain meadow land for which this additional allowance is made shall not be considered in calculating the portion of the range-building allowance provided for in paragraph

- 4. Section 705.203 is hereby amended by the addition of paragraph (d) as follows:
- (d) Deduction for failure to maintain practices under previous programs.

than timothy and redtop), biennial sweet | maximum rates allowable, and the rates | Where the county committee, in accordance with instructions of the State Committee, determines that (1) water developments or fences constructed or forest trees planted are not maintained in accordance with good ranch management; (2) seedings of perennial legumes or grasses are destroyed after ranch operators have been informed that the destruction of such legumes or grasses is contrary to the purposes of the program; or (3) the effectiveness of any range-building practice carried out under a previous program is destroyed in 1941 contrary to good range management, there will be deducted from payments which would otherwise be made with respect to the ranching unit an amount equal to the payment which would be made in 1941 for a similar amount of such practices.

> Done at Washington, D. C., this 9th day of December 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

CLAUDE R. WICKARD, Secretary of Agriculture.

[F. R. Doc. 40-5492; Filed, December 10, 1940; 11:32 a. m.]

#### TITLE 14—CIVIL AVIATION

#### CHAPTER I-CIVIL AERONAUTICS AUTHORITY

[Amendment 3 of § 285.1, Economic Regulations]

RULES OF PRACTICE UNDER TITLE IV AND SECTION 1002(D) TO (I) OF THE CIVIL AERONAUTICS ACT OF 1938

At a session of the Civil Aeronautics Board held at its offices in Washington, D. C., on the 7th day of December 1940.

The Civil Aeronautics Board, acting pursuant to the Civil Aeronautics Act of 1938, particularly sections 205(a) and 1001 thereof, and deeming its action necessary to carry out the provisions of said Act and to exercise its powers and perform its duties thereunder, hereby makes and promulgates the following regulation:

Paragraph (b) of amendment No. 2 of § 285.1 of the Economic Regulations is hereby amended to read as follows:

(b) If, in any proceeding, the time for filing motions to intervene, prescribed by paragraph (a) of this regulation, has expired prior to November 27, 1940, or will expire within less than 10 days after said date, any such motion may be filed within 30 days after November 27, 1940.

This regulation shall become effective on December 7, 1940.

By the Civil Aeronautics Board.

[SEAL]

THOMAS G. EARLY, Secretary.

[F. R. Doc. 40-5479; Filed, December 10, 1940; 10:12 a. m.]

<sup>&</sup>lt;sup>1</sup>5 F.R. 2934.

<sup>15</sup> F.R. 4660.

# RITIES EXCHANGES

CHAPTER II—SECURITIES AND **EXCHANGE COMMISSION** 

PART 270-INVESTMENT COMPANY ACT OF 1940

TEMPORARY EXEMPTION AMENDMENT OF FROM CERTAIN COMPANIES ISSUING PE-RIODIC PAYMENT PLAN CERTIFICATES

Acting pursuant to the authority conferred upon it by the Investment Company Act of 1940, particularly sections 6 (c) and 38 (a) thereof, and deeming the extension of the temporary exemption provided in § 270.6c-11 [Rule N-6C-1] appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, the Securities and Exchange Commission hereby amends said § 270.6c-1 [Rule N-6C-1] by striking out the words "December 31, 1940" where they appear in paragraph (d) of said rule and inserting in lieu thereof the words "February 15, 1941."

Effective December 10, 1940. By the Commission.

· [SEAT.]

ORVAL L. DUBOIS. Recording Secretary.

[F. R. Doc. 40-5484; Filed, December 10, 1940; 11:20 a. m.]

#### TITLE 32-NATIONAL DEFENSE

CHAPTER VII—SELECTIVE SERVICE SYSTEM

[Amendment 6, Selective Service Regs.]

AMENDING REGULATIONS TO CLARIFY DUTIES OF GOVERNMENT APPEAL AGENTS AND MEMBERS OF ADVISORY BOARDS FOR REGISTRANTS

By virtue of the provisions of the Selective Training and Service Act of 1940, approved September 16, 1940, and the authority vested in me by the rules and regulations prescribed by the President thereunder, I hereby amend Volume One,2 Section I, Paragraph 103; Section V. Paragraph 135; and Section VII. Paragraph 145 of the Selective Service Regulations, so that, as amended, said Paragraphs 103, 135, and 145 will read as follows:

103. The elements of the Selective Service System. The elements of the Selective Service System are shown on the accompanying chart (page 37803). In general, the elements operate as follows. The election machinery, or other designated agencies, accomplishes the registration. The Local Board classifies registrants, and has assigned to it a physician to make physical examinations and a Government Appeal Agent to protect the interests of the Government and of registrants. An Advisory Board for

TITLE 17-COMMODITY AND SECU-Registrants is appointed to advise and mally be composed of three lawyers. The assist registrants in preparing questionnaires, claims, or other papers which will serve as a basis for classification.

It is intended that members of Advisory Boards for Registrants shall not be precluded, but shall be encouraged, to give to registrants and their dependents such free information and advice for filing. as may be deemed helpful even though such assistance may be directly connected not with the operative processes of Selective Service, but, for example, with the Soldiers' and Sailors' Civil Relief Act, wills, insurance, and all other legal matters: Provided, That such service is rendered by the members of Advisory Boards for Registrants in their individual capacities as lawyers and not as officials of Selective Service.

The Medical Advisory Board, made up of specialists, assists in determining doubtful cases of physical condition. The Board of Appeal reviews Local Board decisions as to classification when appeal is made. All of the above elements will be composed of, and administered by, civilians. The State Headquarters operates the Selective Service System within the State; the National Headquarters, within the nation.

135. Local boards; Government appeal agent. For each local board, a government appeal agent shall be appointed by the President upon recommendation of the Governor. He shall take the prescribed oath (Form 21), which shall be sent to the Governor for filing. The duties of the person so designated are: To appeal from any classification by a local board which, in his opinion, should be reviewed by the board of appeal; to care for the interests of ignorant registrants and their dependents with respect to appeals, and where the decision of the local board is against the interests of such persons, and where it appears that such persons may not take appeals, due PART 4-ADJUDICATION: VETERANS' CLAIMS, to their own nonculpable ignorance, to inform them of their rights and assist them to enter appeals to the board of appeal; and after classification, to investigate and report upon matters which are submitted for his investigation by the local board. It shall also be the duty of such appeal agent, where the interests of justice may require, to suggest to the local board a reopening of any case, and to impart to the local board any information which in his opinion ought to be investigated. The government appeal agent should expedite the examination of the records of registrants as soon as they have been classified by the local board in order that appeals to the board of appeal, where found necessary, may be filed within the time limit specified in the regulations.

145. Advisory boards for registrants. In each State, advisory boards for registrants shall be appointed by the Governor to insure that advice and assistance in preparing questionnaires, claims, or for nor prior to the date of reenactment other papers which will serve as a basis of the law upon which the benefit is for classification, are readily available to based; increased pension because of need

chairman shall if practicable be a judge of a county court or of a court of similar jurisdiction. The advisory board for registrants may appoint associate members. Members and associate members shall take the prescribed oath (Form 21), which shall then be sent to the Governor

> C. A. DYKSTRA. Director.

DECEMBER 9, 1940.

[F. R. Doc. 40-5474; Filed, December 10, 1940; 10:05 a.m.)

TITLE 3S—PENSIONS, BONUSES, AND VETERANS' RELIEF

### CHAPTER I—VETERANS' ADMINISTRATION

PART 4—ADJUDICATION: VETERANS' CLAIMS. CENTRAL OFFICE SECTION

#### ATD AND ATTENDANCE

§ 4.2080 Pension laws in force on March 19, 1933, and as reenacted by section 30, Public No. 141, 73d Congress and Public No. 269, 74th Congress. As to increase of pension of all classes based upon the need of regular aid and attendance, the increased rating shall be effective from the date of inception of the requisite condition, as shown by the evidence or the date of the act authorizing the payment, whichever is the later date. (December 10, 1940.) [48 Stat. 525; 38 U.S.C. 366; 49 Stat. 614; 38 U.S.C. 363, 369]

[SEAL]

FRANK T. HINES. Administrator.

[F. R. Doc. 40-5485; Filed, December 10, 1940; 11:26 a. m.]

CENTRAL OFFICE SECTION

#### ALIENDED AWARDS

§ 4.2117 Increases. Under the laws providing pensions for persons who served prior to April 21, 1898, the effective date of an award of increased pension because of increased disability or need of frequent and periodical attendance will be from the date of receipt in the Veterans' Administration of the evidence by which the condition warranting the increase is shown to exist, but not earlier than the date of claim therefor nor prior to the date of enactment of the law upon which the benefit is based. Under the laws reenacted by Public No. 269, 74th Congress, the effective date of an award of increased pension because of increased disability will be from the date of receipt in the Veterans' Administration of the evidence by which the condition warranting the increase is shown to exist, but not earlier than the date of claim thereevery registrant. Each board shall nor- of regular aid and attendance will be

<sup>&</sup>lt;sup>1</sup>5 F.R. 4236.

<sup>25</sup> F.R. 3779. <sup>3</sup> Issue of September 25, 1940.

from the date of inception of the requisite | doned prior to October 17, 1940, may, condition, as shown by the evidence, or the date of the act authorizing the payment, whichever is the later date. (December 10, 1940) [49 Stat. 614; 38 U.S.C. 368, 3691

[SEAL]

FRANK T. HINES. Administrator.

[F. R. Doc. 40-5486; Filed, December 10, 1940; 11:26 a. m.]

PART 5-ADJUDICATION: DEPENDENTS' CLAIMS

PENSIONABLE AND COMPENSABLE SERVICE FOR DEATH-PENSION AND COMPENSATION PURPOSES

§ 5.2539 Death compensation payable by virtue of Public No. 196, 76th Congress (Act of July 19, 1939) or under that Act as amended by sections 7 and 8, Public No. 866, 76th Congress (Act of October 17, 1940).

(b) For the purposes of Public No. 196, 76th Congress, as amended by sections 7 and 8, Public No. 866, 76th Congress (Act of October 17, 1940), on and after October 17, 1940, the surviving widow, child or children of a World War veteran, regardless of whether he was in receipt of compensation on March 19, 1933, and regardless of the cause of death, who dies or has died and service connection for any disease, injury or condition mentioned in the preceding paragraph (a) is or would have been established under the laws or interpretations governing this class of cases prior to March 20, 1933, shall be entitled to receive compensation at the monthly rates specified in § 5.2640 (b) subject to the conditions of § 5.2514 (b) as to widowhood, § 5.2514 (c) (2) as to definition of the term "child", § 5.2548 (f) (2) as to annual income restrictions, and § 5.2575 (b) as to date of commencement, and § 2.1000 as to service. (December 10, 1940.) [Pub. No. 866, 76th Congress]

FRANK T. HINES, Administrator.

[F. R. Doc. 40-5487; Filed, December 10, 1940; 11:26 a. m.]

### PART 5-ADJUDICATION: DEPENDENTS' CI.ATMS

COMMENCEMENT OF ORIGINAL AWARDS OF DEATH PENSION OR COMPENSATION

§ 5.2575 Death compensation payable by virtue of Public No. 196, 76th Congress (Act of July 19, 1939) or under that Act as amended by sections 7 and 8 Public No. 866, 76th Congress (Act of October 17, 1940). (b) For the purposes of Public No. 196, 76th Congress (Act of July 19, 1939), as amended by sections 7 and 8, Public No. 866, 76th Congress (Act of October 17, 1940; any claim filed subsequent to March 19, 1933, and prior to October 17, 1940, under any law granting pension or compensation to widows of F.R. Doc. 40-5489; Filed, December 10, 1940, World War yeterans, disallowed or aban-

upon written notice from the claimant or her representative to the Veterans' Administration, be revived at any time prior to October 17, 1941, and when entitlement is otherwise established, payments under Public No. 196, 76th Congress (Act of July 19, 1939), authorized by reason of the amendments contained in sections 7 and 8, Public No. 866, 76th Congress, shall commence October 17, 1940; provided that any claim filed subsequent to March 19, 1933, and prior to October 17, 1940, in which the widow or her representative has not been notified of the disallowance thereof, or any claim pending on October 17, 1940, shall be considered an application under Public No. 196, 76th Congress, as amended by sections 7 and 8, Public No. 866, 76th Congress, without the written notice required herein, and if allowable only under Public No. 196, 76th Congress, as amended, payments shall commence October 17, 1940, provided further that as to any original claim filed on or after October 17, 1940, payment shall commence (1) October 17. 1940, or the day following the date of death whichever is the later, if application is filed within one year from the date of death, or (2) the date of filing application, if application is not filed within one year from the date of death. (December 10, 1940) [Public No. 866, 76th Congress]

[SEAL]

FRANK T. HINES, Administrator.

[F. R. Doc. 40-5488; Filed, December 10, 1940; 11:27 a. m.]

# PART 5-ADJUDICATION: DEPENDENTS' CLAIMS

#### · FORFEITHRES

§ 5.2607 Forfeiture of benefits by a veteran as it relates to claims for death compensation. Forfeiture of benefits by a veteran under the provisions of section 504, World War Veterans' Act, 1924, as amended, or section 15 of Public No. 2. 73d Congress, shall not preclude (1) payments of death compensation benefits for service-connected death or (2) payments of death compensation benefits, on and after October 17, 1940, under Public No. 484, 73d Congress, as amended: Provided, That no compensation or pension shall be paid to any dependent who has participated in the fraud for which the forfeiture was imposed. (A. D. 318 and section 9, Public No. 866, 76th Congress, Act of October 17, 1940.) In forfeiture cases, death compensation benefits under Public No. 484, as amended, may not be awarded for any period prior to October 17, 1940. (A. D. 416 and 47 Sol. 57). (December 12, 1940) [Pub. No. 866, 76th Congress]

[SEAL]

FRANK T. HINES, Administrator.

11:27 a. m.]

PART 25-MEDICAL

#### HOSPITAL AND DOMICILIARY CARE

§ 25.6045 Hospitalization for observation and physical examination. may be effected when requested or found necessary in physical examination of the following persons:

- (a) Claimants or beneficiaries of the Veterans' Administration, in connection with claims for monetary benefits, e. g., for purposes of disability compensation, pension, emergency officers' retirement pay, and Government Insurance (including World War applicants for reinstatement, and applicants for National Service Life Insurance).
- (b) Employees of the Veterans' Administration, when necessary to determine mental or physical fitness to perform their duties.
- (c) Claimants or beneficiaries of other Federal agencies: (1) Bureau of War Risk Litigation. Department of Justiceplaintiffs (veterans) in Government Insurance suits. (2) United States Civil Service Commission-annuitants or applicants for retirement annuity, and such examinations of prospective appointees as may be requested. (3) United States Employees Compensation Commissionto determine identity, severity or persistence of disability. (4) Railroad Retirement Board-applicants for annuity under Public No. 162, 75th Congress. (5) Other Federal agencies.
- (d) Pensioners of nations allied with the United States in the World War, upon authorizations from accredited officials of the respective Governments. (December 10, 1940) [10 U.S.C.A. 487a; Joint Resolution No. 96; and Pub. No. 783, 76th Congress]
- § 25.6046. Hospitalization for treatment. (a) Hospital treatment may be provided for:
- (1) Applicants entitled by previous military or naval service in the forces of the United States.
- (2) Persons on the active or retired lists of the United States Navy and members of the Naval Reserve or Marine Corps Reserve, under authority of Public No. 675, 70th Congress, upon request of Navy Department.
- (3) Persons in the active military service, regular army, upon request of the War Department, under authority of Public No. 177, 76th Congress.

(4) Beneficiaries of the United States Public Health Service, upon request of the surgeon general of that service.

- (5) Beneficiaries of the United States Employees Compensation Commission, including employees of the Work Projects Administration and Civil Service employees.
- (6) Enrollees of and officers and enlisted men attached to the Civilian Conservation Corps.
- (7) Pensioners of nations allied with the United States in the World War,

upon authorizations from accredited of-|members of the Enlisted Reserve, or offificials of the respective Governments.

- (8) Emergency treatment may be given: To persons having no prima facie eligibility, as a humanitarian service; to persons admitted as presumed ex-members of the armed forces, but subsequently found not eligible as such; to employees (not entitled by reason of previous military or naval service) and to members of the immediate families of employees. when residing on the reservation of a facility of the Veterans Administration, and when they cannot feasibly obtain emergency treatment from private physicians or hospitals.
- (b) Applicants comprehended by (2) to (8) inclusive of paragraph (a) hereof, may be supplied hospital treatment when beds are available in facilities under direct and exclusive jurisdiction of the Veterans Administration, after the needs of applicants under (1) are fully met. For procedure, including per diem rates, see currently approved medical procedure.
- (c) Domiciliary (barracks) care may be provided applicants under (a) (1), including retired officers and retired enlisted men of the regular establishment, who had served in a period of war. Domiciliary (barracks) care will not be provided for persons comprehended by (a) (2) to (8) inclusive.
- (d) Retired emergency officers have potential eligibility under (a) (1) to hospital treatment or domiciliary care. (December 10, 1940) [10 U.S.C.A. 487a; Joint Resolution No. 96; and Pub. No. 783, 76th Congress]
- § 25.6047 Eligibility of ex-members of the military or naval forces for hospital treatment or domiciliary care. Within the limits of Veterans Administration facilities, hospital treatment or domiciliary care may be furnished the following applicants in the specified order of prefer-
- (a) Hospital treatment for: (1) Persons who served during the period of the World War, as defined in § 35.10 (a), (d) as amended, or in any war prior to the Spanish-American War, or during the Spanish-American War, Philippine Insurrection or Boxer Rebellion, from April 21, 1898 to July 4, 1902 (or to July 15, 1903, if they served in Moro Province), who were honorably discharged from their last period of war service, and who are suffering from injuries or diseases incurred or aggravated in line of duty in active military or naval service, and for which they are in need of hospital treat-
- (2) Persons included in § 35.011 (c) who are suffering from injuries or diseases incurred in line of duty, for which they are receiving disability compensation, and for which they are in need of hospital treatment.
- (b) Hospital treatment for: (1) Officers and enlisted personnel of the United States Army, Navy, Marine Corps and Coast Guard, or reserve officers and than war time.

- cers and enlisted men of the National a period other than war time, and his Guard of the United States, or persons last discharge or separation was not accepted for selective training, who were honorably discharged from active Federal service for disability incurred in line of duty, or who are in receipt of pension for service-connected disability, when suffering from injuries or diseases incurred or aggravated in line of duty in active Federal service, and for which they are in need of hospital treatment. Cadets and midshipmen discharged from the academies at West Point and Annapolis, who meet these requirements as to character of discharge or receipt of pension are eligible under this paragraph, regardless of the requirement as to active military or naval service.
- (2) For applicants not in receipt of pension for service-connected disability, the official records of the Army or Navy, respectively, relative to findings of line of duty for its purposes, will be accepted in determining eligibility for hospital treatment under this, paragraph (b); except that where the official records of the Army or Navy show a finding of disability not incurred in line of duty and evidence is submitted to the Veterans' Administration which permits of a different finding, the decision of the Army or Navy will not be binding upon the Veterans' Administration, which will be free to make its own determination of line of duty incurrence upon the evidence so submitted. It will be incumbent upon the applicant to present such controverting evidence and, until he so acts and a determination favorable to him is made by the Veterans' Administration, the finding of the Army or Navy will control and hospitalization will not be authorized. Such controverting evidence, when received from an applicant, will be referred to the adjudicating agency which would have jurisdiction if the applicant were filing claim for pension or disability compensation, and the determination of such agency as to line of duty, which is promptly to be communicated to the manager of the facility receiving the application for hospitalization, will govern his disapproval or approval of admission, other eligibility requirements having been met. Where the official records of the Army or Navy show that the disability on account of which a veteran was discharged or honorably separated from his peace-time service was incurred in line of duty, such showing will be accepted for the purpose of determining his eligibility for hospitalization, notwithstanding the fact that the Veterans' Administration has made a determination in connection with a claim for monetary benefits that the disability was incurred not in line of duty. See also Public No. 648, 75th Congress, defining line of duty, whether on active duty or authorized leave, relative to applicants whose only military or naval service was in a period other

- If the applicant's only service was in honorable, hospital treatment will be furnished only for a disease or injury incurred in line of duty in a period of service for which he was honorably discharged or honorably separated for disability incurred in line of duty. \* \* \*
- (d) Hospital or domiciliary care, including emergency or extensive hospital treatment for: (1) Officers and enlisted personnel of the United States Army, Navy, Marine Corps, or Coast Guard, or Reserve Officers and members of the Enlisted Reserves, or officers and enlisted men of the National Guard of the United States, or persons accepted for selective training, who were honorably discharged from active Federal service for disability incurred in line of duty, or who are in receipt of pension for service-connected disability, when suffering from a permanent disability or tuberculous or neuropsychiatric ailment or such other conditions requiring emergency or extensive hospital treatment, and who are incapacitated from earning a living and who have no adequate means of support. See also paragraph (b) (3), which applies here.

  \* \* I10 U. S. C. A. 487a; Joint Resolution No. 96; and Pub. No. 783, 76th Congress] (December 10, 1940)

[SEAL]

FRANK T. HINES. Administrator.

[F. R. Doc. 40-5430; Filed, December 10, 1940; 11:27 a. m.]

#### TITLE 46—SHIPPING

CHAPTER II—UNITED STATES MARI-TIME COMMISSION

[General Order No. 35]

PART 287-ESTABLISHMENT OF CONSTRUC-TION RESERVE FUNDS

Preliminary regulations under section 511 of the Merchant Marine Act, 1936, as amended, prescribed jointly on November 29, 1940, by the United States Maritime Commission and the Secretary of the Treasury, appear in the December 3. 1940 issue of the Federal Register, page 4751, under Title 26-Internal Revenue. Chapter I-Bureau of Internal Revenue, Part 32-Establishment of Construction Reserve Funds.

# Notices

# WAR DEPARTMENT.

[Contract No. W 535 ac-16070 (3809)] SUMMARY OF CONTRACT FOR SUPPLIES CONTRACTOR: MORTH AMERICAN AVIATION. mic.

Contract for \* \* \* Airplanes. Spare Parts & Data, Amount, \$72,857,-049.00.

calendar month or as soon thereafter

as practicable on authenticated state-

ments of expenditures of the Contractor

Contractor for installation in the air-

The Government shall furnish to the

approved by the Contracting Officer.

Place: Materiel Division, Air Corps, U. S. Army, Wright Field, Dayton, Ohio.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following Procurement Authorities, the available balances of which are sufficient to cover costs of same:

AC 34 P 12-3037 A 0705-01... \$68,090,700.00 AC 28 P 12-3037 A 0705-01... 4,766,349.00

This contract, entered into this 21st day of September 1940.

ARTICLE 1. Scope of this contract. The contractor shall furnish and deliver to the Government all of the airplanes, spare parts and data as set forth more particularly in Article 16 hereof, for the consideration stated not to exceed Seventy Two Million Eight Hundred Fifty Seven Thousand Forty Nine Dollars (\$72,857,049.00), in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

ART. 2. Changes. Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

ART. 5. Delays—Damages. If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by written notice terminate the right of the contractor to proceed with deliveries or such part or parts thereof as to which there has been delay.

ART. 8. Payments. The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein Unless otherwise specified, provided. payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either \$1,000 or 50 percent of the total amount of the contract.

ART. 16. Articles and supplies called for and payment therefor. The Contractor shall furnish and deliver to the Government all of the following airplanes, spare parts and data at the prices hereinbelow indicated:

Item 1. \* \* \* Airplanes, at a total not exceeding...

Item 3. \* \* \* blueprint
copies and \* \* direct reading dark brown stress analysis at\_\_\_\_\_

\$68,090,700.00

4,766,349.00

No cost

planes called for under the terms of this contract all materials, equipment and supplies listed in Contractor's Model Specification hereinbefore referred to. ART: 23. Advance payments. Advance

payments may be made from time to time for the supplies called for, when the Secretary of War deems such action necessary in the interest of the National Defense.

ART. 25. Plant facilities contingency. It is understood and agreed that certain plant facilities and machinery in addition to those now available to the Contractor will be required by the Contractor to enable him to comply with the delivery schedules contained in this contract. If an agreement satisfactory to the Contractor, providing for the construction or acquistion of such plant facilities and machinery, is not entered into and, if required, approved on or before \* \*, then and in such event negotiations shall, at the written request of the Contractor delivered to the Contracting Officer, be entered into by and between the Contractor and the Contracting Officer for the amendment of such delivery schedules. If no agreement on such amendment be reached within \* days from the date of delivery of such request, then the Contractor shall have the right, at any time thereafter and prior to the execution and approval, if required, of an agreement providing for the plant facilities and machinery required as hereinbefore stated, to demand in writing of the Contracting Officer that the Government terminate this contract upon the terms and conditions stated in Article 28 hereof, and the Government agrees in such event to so terminate.

It is expressly understood and agreed by both parties hereto that the contractor hereby agrees:

To pay into the Treasury profit, as hereinafter provided shall be determined by the Treasury Department, in excess of 12 per centum of the total contract prices, of such contracts within the scope of the law as are completed by the particular contracting party within the income taxable year.

ART. 27. Price adjustment. The contract prices stated in this contract for all airplanes and spare parts are subject to adjustments for changes in labor costs.

It is expressly agreed that quotas for labor will not be altered on account of delays in the completion of the articles.

ART. 28. Termination when contractor not in default. If, in the opinion of the Contracting Officer upon the approval of The Secretary of War, the best interests of the Government so require, this contract may be terminated by the Government, even though the contractor be not No cost | in default, by a notice in writing relative | contractor to proceed with deliveries or

Partial payments will be made as the thereto from the Contracting Officer to work progresses at the end of each the contractor.

> ART. 37. Title to property where partial payments are made. The title to all property upon which any partial payment is made prior to the completion of this . contract, shall vest in the Government.

ART. 39. Fire insurance. The Contractor agrees to insure against fire all property in its possession upon which a partial payment is about to be made, such insurance to be in a sum at least equal to the amount of such payment plus all other partial payments.

This contract authorized under the provisions of Section 1 (a). Act of July 2. 1940.

> NEAL H. MCKAY, Major, Quartermaster Corps, Assistant to the Director of Purchases and Contracts.

[F. R. Doc. 40-5477; Filed, December 10, 1940; 10:11 a. m.]

[Contract No. W 535 ac-15677 (3666)] SUMMARY OF CONTRACT FOR SUPPLIES CONTRACTOR: BOEING AIRCRAFT COMPANY

Contract for: \* \* \* Airplanes, Spare Parts, Model and Data Amount \$70,449,-955.20.

Place: Materiel Division, Air Corps, U. S. Army, Wright Field, Dayton, Ohio.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following Procurement Authorities, the available balances of which are sufficient to cover cost of same:

AC 34 P 12-3037 A 0705-01... \$67,096,275.20 AC 28 P 82-3037 A 0705-01... 3,353,680.00

This Contract, entered into this 29th day of August 1940.

ARTICLE 1. Scope of this contract. The contractor shall furnish and deliver to the Government all of the articles and data as set forth more particularly in Article 16 hereof, for the consideration stated not to exceed Seventy Million Four Hundred Forty Nine Thousand Nine Hundred Fifty Five Dollars and Twenty Cents (\$70,449,955.20) in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

ART. 2 Changes. Where the supplies . to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also bè made as above provided.

ART. 5. Delays-Damages. If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by written notice terminate the right of the there has been delay.

ART. 8. Payments. The Contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either \$1,000 or 50 percent of the total amount of the contract.

ART. 16. Articles and data called for and payment therefor. The Contractor shall furnish and deliver to the Government all of the following airplanes, spare parts, model and data at the prices hereinbelow set forth:

Item 1. \* \* \* Airplanes\_\_ \$66,847,200.00
Item 2. Certain spare parts for all of the airplanes at a total price not exceeding\_\_\_ \* Direct reading dark brown negatives, total not to exceed\_\_\_.
tem 4. \* Stress Item 4. \* Stress Analysis and weight data furnished at a cost of\_\_\_\_\_em 5. \* Photographs, toat a ...

Item 5. \* Pnows
tal not to exceed...

Handbook of in
th parts cata
omstructions with parts cata-logue and price list compilation covering the airplanes furnished at a cost at a cost of\_\_\_\_\_em 9. \* Wind Tunnel Item 9. \* Wind Tunnel Model of airplane at a cost

3, 353, 680, 00 8, 100.00 375,00 6,900.00 2,493,00 850.00 3,890.00

Partial payments will be made as the work progresses at the end of each calendar month or as soon thereafter as practicable on authenticated statements of expenditures of the Contractor approved by the Contracting Officer.

The Government shall furnish to the Contractor, without additional cost therefor, for installation in the airplanes called for under the terms of sub-paragraph (a) of Item 1 of this Article, the articles listed in Contractor's Specification No. D-2163-E, or listed elsewhere in this contract as being Governmentfurnished.

ART. 22. Advance payments. Advance payments may be made from time to time for the supplies called for, when the Secretary of War deems such action necessary in the interest of the National Defense.

ART. 24. Price adjustment. The contract prices stated in this contract for airplanes and spare parts are subject to adjustments for changes in labor costs.

It is expressly agreed that quotas for labor will not be altered on account of \$56,917,000.00.

such part or parts thereof as to which delays in the completion of the airplanes and spare parts.

ART. 25. Option. The Government is granted the right and option at any time within \* \* \* days from and after the date of approval of this contract to increase the total quantity of airplanes called for under the terms of Item 1 of \$2,845,850.00. Article 16 hereof.

ART. 27. Termination when contractor not in default. If, in the opinion of the Contracting Officer upon the approval of The Secretary of War, the best interests of the Government so require. this contract may be terminated by the Government even though the contractor be not in default, by a notice in writing relative thereto from the Contracting Officer to the contractor.

It is expressly understood and agreed by both parties hereto that the contractor hereby agrees:

To pay into the Treasury profit, as hereinafter provided shall be determined by the Treasury Department, in excess of 8 per centum of the total contract prices, of such contracts within the scope of the law as are completed by the particular contracting party within the income taxable year.

ART. 37. Title to property where partial payments are made. The title to all property upon which any partial payment is made prior to the completion of this contract, shall vest in the Government.

ART. 39. Fire insurance. The contractor agrees to insure against fire all property in its possession upon which a partial payment is about to be made, such insurance to be in a sum at least equal to the amount of such payment plus all other partial payments.

[Serial No. 3344 Date 9/12/40; Change No. 1 to Contract No. W535 ac-15677, Dated Aug. 29, 1940]

# Change Order

WAR DEPARTMENT AIR CORPS, MATERIEL DIVI-SION, WRIGHT FIELD, DAYTON, OHIO

BOEING AIRCRAFT COMPANY, SEATTLE, WASHING-TON, ADDITIONAL AMPLANES, CONTRACT W 535 AC-15677

The Government hereby elects to exercise its right and option contained in Article 25 of Contract W 535 ac-15677 to increase the number of airplanes and spare parts to be furnished under the terms of Items 1 and 2, respectively, of Article 16 of said contract, and it is mutually understood and agreed by the parties hereto that so many of the provisions of the contract as are affected ficient to cover cost of same. by said increases are changed as set forth hereinbelow:

The lot quantity of airplanes being purchased under the terms of Contract W 535 ac-15677 and as described in paragraph (a) of Item 1 of Article 16 of such contract is hereby increased to \* \* total additional cost,

The lot quantity of spare parts for the \* \* \* airplanes called for under the terms of Item 1 (a) of Article 16 of Contract W 535 ac-15677 is increased from a total price not exceeding \$3,353,680.00 to a total price not exceeding \$6,199,530.00, Total additional cost,

It is understood and agreed that certain plant facilities in addition to those now available to the Contractor will be required by the Contractor to enable him to comply with the delivery schedules contained in Contract W 535 ac-15677 and in this Change Order. If an agreement satisfactory to the Contractor, providing for the construction or acquisition of such facilities, is not entered into, and, approved on or before \* then and in such event negotiations shall, at the written request of the Contractor delivered to the Contracting Officer, be entered into by and between the Contractor and the Contracting Officer for the amendment of such delivery schedules. If no agreement on such amendment be reached \* \* days from the date of within \* delivery of such request, then the Contractor shall have the right, at any time thereafter and prior to the execution and approval, if required, of an agreement providing for the facilities required as hereinbefore stated, to demand in writing of the Contracting Officer that the Government terminate Contract W 535 ac-15677 and this Change Order upon the terms and conditions stated in Article 27 of said contract and the Government agrees in such event to so terminate.

Reason: Additional airplanes required to meet the Air Corps Expansion Program.

It is expressly understood and agreed by both parties hereto that the contractor hereby agrees:

To pay into the Treasury profit, as hereinafter provided shall be determined by the Treasury Department in excess of 8 per centum of the total contract prices, of such contracts within the scope of the law as are completed by the particular contracting party within the income taxable year.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in and are chargeable to Procurement Authority AC34P12-3037 A 0705-01, \$56,917,000.00. AC 28 P 82-3037 A 0705-01, \$2,845,850.00, the available balance of which is suf-

This contract authorized under the provisions of section 1 (a), Act of July 2, 1940.

> NEAL H. MCKAY, Major, Quartermaster Corps. Assistant to the Director of Purchases and Contracts.

[F. R. Doc. 40-5476; Filed, December 10, 1940; 10:10 a. m.]

#### DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. A-108]

PETITION OF SEAGLE COAL COMPANY, FILED PURSUANT TO SECTION 4, II (d) OF THE BITUMINOUS COAL ACT OF 1937

ORDER CONSENTING TO WITHDRAWAL OF PETITION

Upon the request of the petitioner, Seagle Coal Company, the Director consents to the withdrawal of its petition and to the dismissal, without prejudice, of the proceedings in this Docket, and to that effect

It is so ordered. Dated: December 9, 1940.

[SEAL]

H. A. GRAY, Director.

[F. R. Doc. 40-5494; Filed, December 10, 1940; 11:36 a. m.]

#### [Docket No. A-136]

PETITION OF DISTRICT BOARD NO. 8 FOR CHANGE IN CLASSIFICATION IN SIZE GROUP 22 OF COALS OF CORNETT-LEWIS COAL COMPANY AND MAHAN-ELLISON COAL CORPORATION

MEMORANDUM. AND ORDER CONCERNING TEMPORARY RELIEF

District Board No. 8 petitioned the Bituminous Coal Division for a reduction in classification in Size Group 22 of coal from the Cornett Mine of the Cornett-Lewis Coal Company from "N" to "O" and from the Stanfill-Harlan Mine of the Mahan-Ellison Coal Corporation from "K" to "O".

A hearing was held on this matter on November 4, 5, and 9, 1940. Subsequent to the hearing a petition was filed by District Board No. 8 requesting that temporary relief similar to that requested in the original petition be granted pending the final disposition of the petition.

Testimony was introduced at the hearing that shipments of Size Group 22 coals from these mines had substantially diminished since October 1, 1940, and that inability to market Size Group 22 coals tended to prevent these mines from operating on account of congested railway facilities. However, the Director is of opinion that the petition presents problems of a controversial nature which may not be readily decided without careful study and that the granting of the full temporary relief sought may unduly prejudice other interested persons; but that in the case of the Stanfill-Harlan Mine of the Mahan-Ellison Coal Corporation petitioner is clearly entitled to some reduction in classification in Size Group 22.

Now, therefore, it is ordered, That a reasonable showing of necessity having been made, temporary relief is granted in part pending final disposition of the petition, and the Schedule of Effective Minimum Prices for District No. 8 For All Shipments Except Truck is amended by reducing the classification in Size

lan Mine of the Mahan-Ellison Coal Corporation from "K" to "M" for shipment to all destinations.

Applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the Rules and Regulations for Proceedings under section 4 II (d) of the Bituminous Coal Act Indiana. of 1937.

Dated: December 9, 1940.

[SEAL]

H. A. GRAY, Director.

[FR. Doc. 40-5495; Filed, December 10, 1940; 11:36 a. m.]

#### DEPARTMENT OF AGRICULTURE.

Surplus Marketing Administration. [Docket No. A-151 O-151]

NOTICE OF HEARING WITH RESPECT TO A PROPOSAL TO AMEND ORDER No. 32, AS AMENDED, AND THE TENTATIVELY AP-PROVED MARKETING AGREEMENT, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE FORT WAYNE, INDIANA, MARKETING AREA

Whereas pursuant to the powers conferred upon the Secretary of Agriculture by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, the Secretary issued Order No. 32, as amended, regulating the handling of milk in the Fort Wayne, Indiana, marketing area, effective September 1, 1939, which order as amended, was subsequently further amended effective February 15, 1940; 1 and

Whereas the Secretary, on January 23, 1940, tentatively approved a marketing agreement, as amended, regulating the handling of milk in the Fort Wayne, Indiana, marketing area; and

Whereas the local Milk Committee, appointed by the Indiana Milk Control Board, has proposed certain amendments to said Order No. 32, as amended, and said tentatively approved marketing agreement, as amended; and

Whereas the Secretary has reason to believe that the declared policy of said Act will be effectuated by holding a hearing on a proposal to amend Order No. 32, as amended, and said tentatively approved marketing agreement, amended; and

Whereas under the aforesaid act, notice of hearing is required in connection with a proposal to amend an order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for notice of and opportunity for hearing upon amendments to marketing agreements and orders:

Now, therefore, pursuant to said act and general regulations, notice is hereby given of a hearing, to be held jointly with the Indiana Milk Control Board, on

<sup>1</sup>5 F.R. 665.

Group 22 of coal from the Stanfill-Har- | a proposal to amend Order No. 32, as amended, and the tentatively approved marketing agreement, as amended, regulating the handling of milk in the Fort Wayne, Indiana, marketing area, beginning at 10:00 a. m., c. s. t., December 16, 1940, in the Catholic Community Center. Jefferson and Barr Streets, Fort Wayne,

> This public hearing is for the purpose of receiving evidence relative to proposals by the said Local Milk Committee to (1) revise the classification of milk, (2) revise the minimum class prices to producers, (3) provide for advance payments to producers, and (4) provide for the furnishing by the market administrator to each qualified cooperative association of a report of all classified sales made by handlers purchasing milk from such association.

> Copies of said proposal, prepared as a basis for the public hearing, may be obtained from the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, in Room 0310 South Building, Washington, D. C., or may be there inspected.

[SEAL] CLAUDE R. WICKARD, Secretary of Agriculture.

**DECEMBER 9. 1940.** 

[F. R. Doc. 40-5491; Filed, December 10, 1940; 11:32 a. m.]

#### DEPARTMENT OF COMMERCE.

Civil Aeronautics Authority.

[Docket No. SA-47]

INVESTIGATION OF ACCIDENT INVOLVING AIRCRAFT OF UNITED STATES REGISTRY NC 25678, WHICH OCCURRED NEAR CHI-CAGO, ILLINOIS, ON DECEMBER 4, 1940

NOTICE OF HEARING 1

Notice is hereby given that a public hearing in connection with the above entitled matter will be held in Room 1125, New Post Office Building, Chicago, Illinois, at 9 a.m. (C. S. T.) on December 11,

December 9, 1940.

[SEAL]

S. G. TIPTON, Examiner.

JF. R. Doc. 40-5478; Filed, December 10, 1940; 10:11 a. m.]

# DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF CANCELLATION OF A SPECIAL LEARNER CERTIFICATE FOR THE EMPLOY-MENT OF LEARNERS IN THE APPAREL INDUSTRY

Notice is hereby given that a Special Learner Certificate for the employment of learners issued to the Billings Linen Company, Billings, Montana, effective January 9, 1940, has been cancelled as of its effective date pursuant to its terms which provide among other things that it

<sup>&</sup>lt;sup>1</sup>Issued by the Civil Aeronautics Board.

shall be cancelled as of the date of violation if found that any of its terms have been violated.

This cancellation shall not become effective until after the expiration of a fifteen-day period following the date on which this Notice appears in the FEDERAL REGISTER. During this time petitions for reconsideration or review may be filed under § 522.13 of the Regulations by any aggrieved person. If a petition is properly filed, the effective date of cancellation shall be postponed until final action sustaining the cancellation is taken on the petition.

Signed at Washington, D. C. this 5th day of December 1940.

> ALEX. G. NORDHOLM, Authorized Representative of the Administrator.

[F. R. Doc. 40-5480; Filed, December 10, 1940; 11:00 a. m.]

#### FEDERAL SECURITY AGENCY.

Food and Drug Administration. [Docket No. FDC-27]

IN THE MATTER OF A DEFINITION AND STANDARD OF IDENTITY, A STANDARD OF QUALITY, AND A STANDARD OF FILL OF CONTAINER FOR CANNED FRUIT COCKTAIL

NOTICE OF HEARING

Notice is given hereby that the Administrator of the Federal Security Agency, upon the application of a substantial portion of the interested industry stating reasonable grounds therefor and in accordance with the provisions of sections 401 and 701 (e) of the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1046, 1055, 21 U.S.C. secs. 341 and 371 (e) (Supp. V, 1939), the Re-organization Act of 1939, 53 Stat. 561, 5 U.S.C. sec. 133 (Supp. V, 1939), and Reorganization Plans No. 1 (53 Stat. 1423, 4 F.R. 2727) and No. IV (5 F.R. 2421), will hold a public hearing, commencing at 10 a.m., January 13, 1941, in Room 3106, South Building, 14th Street and Independence Ave. SW., Washington, D. C., upon (A) a proposed definition and standard of identity, (B) a proposed standard of quality, and (C) a proposed standard of fill of container for canned fruit cocktail.

The proposals, which are advocated by the Canners League of California on behalf of its members, are as follows:

§ 27.040 Canned fruit cocktail—identity; label statement of optional ingredients. (a) Canned fruit cocktail is the food prepared from a mixture of mature fruits of the following kinds, any or all of which may have been previously canned: peaches of the yellow varietal group, pears, grapes of a seedless variety, pineapple, and one of the following optional cherry ingredients:

(1) Cherries.

(2) Cherries artificially colored with harmless red coloring.

harmless red coloring and artificially flavored with harmless flavoring.

The peaches are pitted, peeled, and diced. The pears are peeled, cored, stemmed, and diced. The pineapple is preled, cored, and cut into transverse sectors or into dice. The cherries are stemmed, pitted, and cut into approximate halves. Approximate halves of cherries are pieces obtained by cutting pitted whole cherries into two pieces of approximately equal size. As determined by the method prescribed in subsection (c), the weight of peaches is not less than 30 percent and not more than 50 percent, the weight of pears is not less than 25 percent and not more than 45 percent, the weight of grapes is not less than 6 percent and not more than 20 percent, the weight of pineapple is not less than 6 percent and not more than 16 percent, and the weight of the optional cherry ingredient is not less than 2 percent and not more than 6 percent, of the total of such weights. To such mixture is added one of the following optional packing media:

(4) A sirup of refined sugar or refined dextrose, or any mixture of these dissolved in one of the liquids hereinafter prescribed in this subsection. (The concentration of such sirups and the relative proportions of refined sugar and refined dextrose in mixtures of these in any sirup to be fixed upon the basis of the testimony at the hearing.)

(5) Water or the liquid drained from water-pack canned peaches, pears, grapes, pineapple, cherries.

(6) Juice of peaches, pears, grapes, pineapples, or cherries, or any mixture of two or more of these; such juice may be fresh or previously canned, or may be drained from such fruit canned in its own juice, and such juice may have been filtered or clarified or both.

The liquid used in making optional packing media (4) is the liquid specified as optional ingredient (5) or (6), or the liquid drained from sirup-pack canned peaches, pears, grapes, pineapple, or cherries, or any mixture of two or more of such liquids. Canned fruit cocktail is sealed in a container and so processed by heat as to prevent spollage. The concentration of the liquid drained from the finished canned fruit cocktail is not more than 35° Brix. Each 4½ avoirdupois ounces of the contents of container and any remaining fraction greater than two avoirdupois ounces thereof contains not less than two sectors or three dice of pineapple and not less than one approximate half cherry.

(b) When optional cherry ingredient (2) is used, the label shall bear the statement "Cherries Artificially Colored." When optional cherry ingredient (3) is used, the label shall bear the statement "Cherries Artificially Colored and Flavored." When optional ingredient (4) is used, the label shall bear a statement or testimony at the hearing. When optional abnormality. In case such cherry in-

(3) Cherries artificially colored with ingredient (5) is used, the label shall bear the statement "In Water." When optional ingredient (6) is used, the label shall bear the statement "In Fruit Juice." Wherever the name "Fruit Cocktail" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements herein specified showing the optional ingredients used shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

(c) The method referred to in subsection (a) is as follows:

Segregate the drained units from the container by kind. Weigh each kind separately. Calculate the percentage by weight of each kind in the total of such weights. The total so found shall not be considered to be the weight of drained fruit referred to in § 27.042 (a). The drained fruit from the determination prescribed in § 27.042 (a) may be used for the determination prescribed in this subsection.

§ 27.041 Canned fruit cocktail-quality; label statement of substandard quality. (a) The standard of quality for canned fruit cocktail is as follows:

(1) Not more than 20 percent by weight of the units of diced fruit of each kind are of a size that will pass through the meshes of a sieve designated as 5/16 inch in Table I of "Standard Specifications for Sieves," published March 14, 1940, in L. C. 584 of the U. S. Department of Commerce, National Bureau of Standards, or are more than ¾ inch in greatest edge dimension.

(2) In case the pineapple is in the form of sectors, not more than 20 percent of such sectors fail to conform to the following dimensions:

Length of outside is not more than 3/4 inch but more than % inch; thickness not more than 1/2 inch but more than 5/6 inch; length (measured along the radius from inside arc to outside arc) not more than 11/4 inches but more than 3/4 inch.

(3) Not more than a total of 10 percent of the grapes in a container containing ten grapes or more, and not more than one grape in a container containing less than ten grapes, is cracked to the extent of being severed into two parts, or is crushed to the extent of destroying normal shape.

(4) Not more than 10 percent of the grapes in a container containing ten grapes or more, and not more than one grape in a container containing less than ten grapes, has the cap stem attached.

(5) The units of pear meet the requirements of paragraphs (4) and (5) of § 27.021 (a).

(6) The units of peach meet the requirements of paragraphs (4) and (5) of § 27.001 (a).

(7) Not more than 15 percent of the approximate halves of the cherry ingredient in the container is blemished with statements to be fixed upon the basis of scab, hall injury, scar tissue, or other

than 15 percent of the approximate halves in a container having more than six halves shall be other than uniformly red in color, and in a container having six halves or less, not more than one unit shall be other than uniformly red in

(b) If the quality of canned fruit cocktail falls below the standard prescribed in subsection (a) of this section, the label shall bear the general statement of substandard quality specified in § 10.020 (a), in the manner and form therein specified.

§ 27.042 Canned fruit cocktail—fill of container; label statement of substandard fill. (a) The standard of fill of container for canned fruit cocktail is a fill such that the total weight of drained fruit is not less than 65 percent of the water capacity of the container, as determined by the general method for water capacity of containers prescribed in § 10.010 (a). Such total weight of drained fruit is determined by the following method:

Tilt the opened container so as to distribute the contents evenly over the meshes of a circular sieve which has been previously weighed. The diameter of the sieve is 8 inches if the quantity of contents of the container is less than 3 pounds, and 12 inches if such quantity is 3 pounds or more. The bottom of the sieve is woven-wire cloth which complies with the specifications for such cloth set forth under "2380 Micron (No. 8)" in Table I of "Standard Specifications for Sieves," published March 1, 1940, in L. C. 584 of the U. S. Department of Commerce, National Bureau of Standards. Without shifting the material on the sieve, so incline the sieve as to facilitate drainage. Two minutes from the time drainage begins, weigh the sieve and drained fruit. The weight so found, less the weight of the sieve, shall be considered to be the total weight of drained fruit.

(b) If canned fruit cocktail falls below the standard of fill of container prescribed in subsection (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.020 (b), in the manner and form therein prescribed.

All interested persons are invited to attend the hearing, either in person or by representative, and to offer evidence relevant and material to the proposal.

Michael F. Markel hereby is designated as presiding officer to conduct the hearing, in the place of the Administrator, with full authority to administer oaths and affirmations and to do all other things appropriate to the conduct of the hearing.

The hearing will be conducted in accordance with the rules of practice provided for such hearings, as published in the Federal Register of June 26, 1940, at pages 2379 to 2381. (5 F.R. 2379-2381)

persons may offer affidavits by delivering ing, in the place of the Administrator,

nue and 14th Streets SW., Washington, D. C., on or before the date of the opening of the hearing. Such affidavits, if relevant and material, may be received and made a part of the record at the hearing, but the Administrator will consider the lack of opportunity for crossexamination in determining the weight to be given to statements made in the form of affidavits. Every interested person will be permitted, in accordance with the above-mentioned rules of practice, to examine the affidavits offered and to file counter-affidavits with the presiding officer.

The proposals are subject to adoption. rejection, amendment, or modification by the Administrator, in whole or in part. as the evidence adduced at the hearing may require.

Washington, D. C., December 10, 1940.

PAUL V. MCNUTT, Administrator.

[F. R. Doc. 40-5496; Filed, December 10, 1940; 11:39 a. m.]

#### [Docket No. FDC-28]

In the Matter of Amendments of the STANDARDS OF QUALITY FOR CANNED PEACHES, CANNED APRICOTS, AND CANNED

#### NOTICE OF HEARING

Notice is given hereby that the Administrator of the Federal Security Agency, upon the application of a substantial portion of the interested industry stating reasonable grounds therefor and in accordance with the provisions of sections 401 and 701 (e) of the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1046. 1055, 21 U.S.C., sections 341 and 371 (e) (Supp. V, 1939), the Reorganization Act of 1939, 53 Stat. 561, 5 U.S.C. Sec. 133 (Supp. V, 1939), and Reorganization Plans No. I (53 Stat. 1423, 4 F.R. 2727) and No. IV (5 F.R. 2421), will hold a public hearing, commencing at 10 a.m.. January 16, 1941, in Room 3106, South Building, 14th Street and Independence Ave. SW., Washington, D. C., upon proposals, which are advocated by the Canners League of California on behalf of its members, to amend the standards of quality for canned peaches, canned apricots, and canned pears (§§ 27.001, 27.011, and 27.021, 4 F.R. 4924, 5 F.R. 96, 106) so that, when the form of units of the optional fruit ingredients is mixed pieces of irregular sizes and shapes, such canned fruits fall below such standards of quality and the labels of such canned fruits are required to bear the general statement of substandard quality specified in § 10.020 (a), in the manner and form therein specified.

All interested persons are invited to attend the hearing, either in person or by representative, and to offer evidence relevant and material to the proposal.

Michael F. Markel hereby is designated In lieu of oral testimony, interested as presiding officer to conduct the hear-

gredient is artificially colored, not more | 2240, South Building, Independence Ave- | and affirmations and to do all other things appropriate to the conduct of the hearing.

> The hearing will be conducted in accordance with the rules of practice provided for such hearings as published in the Federal Register of June 26, 1940, at pages 2379 to 2381. (5 F.R. 2379-2381)

> In lieu of oral testimony, interested persons may offer affidavits by delivering the same to the presiding officer at Room 2240, South Building, Independence Avenue and 14th Street SW., Washington, D. C., on or before the date of the opening of the hearing. Such affidavits, if relevant and material, may be received and made a part of the record at the hearing, but the Administrator will consider the lack of opportunity for cross-examination in determining the weight to be given to statements made in the form of affidavits. Every interested person will be permitted, in accordance with the above-mentioned rules of practice, to examine the affidavits offered and to file counter-affidavits with the presiding officer.

> The proposed amendments are subject to adoption, rejection, amendment, or modification by the Administrator, in whole or in part, as the evidence adduced at the hearing may require.

Washington, D. C., December 10, 1940. PAUL V. MCNUTT. Administrator.

[F. R. Doc. 40-5497; Filed, December 10, 1940; 11:39 a. m.]

# FEDERAL WORKS AGENCY.

Public Works Administration.

[Administrative Order 320, Supp. 17

POWERS, FUNCTIONS AND DUTIES OF PROJ-ECT ENGINEER FOR CERTAIN PROJECTS

NOVEMBER 28, 1940.

1. Except as otherwise indicated in Paragraph 2 hereof, all the powers, functions and duties authorized to be exercised and performed by any Regional Director's Office with respect to the PWA dockets listed below shall be exercised and performed by Wright L. Felt, Project Engineer, PWA, designated for those dockets and projects.

Docket No. Applicant Calif. 1088-P-D ... Imperial Irrigation District. Calif. 1088-2-P-D-Imperial Irrigation Dis-Calif. 1644-F....City of Los Angeles.
Calif. 1680-F....City of Los Angeles.
Calif. 1708-F....City of Los Angeles.
Calif. 2127-F....The Regents of the University of Calif. versity of California.

2. The Project Engineer shall request the Director, Engineering Division, to assign, and the latter shall assign, to the Project Engineer such Inspectors as may be necessary to provide, for PWA, adequate inspection of the projects which are under the supervision of the Project Engineer. During the period of their assignments, such Inspectors shall be rethe same to the presiding officer at Room with full authority to administer oaths sponsible to the Project Engineer, who may assign them to any of the projects under his supervision. When, in the opinion of the Project Engineer, the services of any Inspector so assigned to him are no longer required by him, he shall accordingly notify the Director, Engineering Division, sufficiently in advance of the date when such Inspector's services will no longer be so required, to the end that appropriate action may be taken to arrange for the furlough of such Inspector or to utilize his services elsewhere.

3. This order supersedes Administrative Order No. 320.1 All other orders and parts of orders in conflict herewith are hereby rescinded.

> J. J. MADIGAN, Acting Commissioner of Public Works.

[F. R. Doc. 40-5475; Filed, December 10, 1940; 10:10 a. m.]

SECURITIES AND EXCHANGE COM-MISSION.

[File No. 70-207]

In the Matter of the Commonwealth & SOUTHERN CORPORATION

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 5th day of December, A. D. 1940.

Notice is hereby given that a declaration or application (or both), has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above named party or parties; and

Notice is further given that any interested person may, not later than December 19, 1940, at 4: 30 P. M., E. S. T., or 1:00 P. M., E. S. T., if such date be a Saturday, request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration or application, as filed or as amended, may become effective or may be granted, as provided in Rule U-8 of the Rules and Regulations promulgated pursuant to said Act. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said declaration or application, which is on file in the office of said Commission, for a statement of the transactions therein proposed, which are summarized below:

poration (Delaware) proposes to sell \$34,231,000 principal amount of Georgia Power Company First and Refunding Mortgage Bonds, 5% Series due March 1, 1967, which are now owned by Commonwealth, at a price of 1051/2 of the principal amount thereof plus accrued interest to six insurance companies as listed below in the following amounts:

The Prudential Insurance Company of America, Newark, New Jersey

\$10,000,000 Sun Life Assurance Company of Canada, Montreal, Canada... 4,000,000 Mutual Benefit Life Insurance Company, Newark, New Jersey\_ Massachusetts Mutual Life In-

surance Company, Springfield, Massachusetts\_ 2,000,000 Mutual Life Insurance Company of New York, New York, New York 2,000,000 Equitable Life Assurance Society

of The United States, New York, New York: 14, 231, 000

2,000,000

The agreement with the insurance companies provides that if Georgia Power Company redeems any of said bonds Commonwealth will pay the purchasers the difference between the redemption price (104%) for bonds redeemed on or prior to March 1, 1942, and the purchase price, and will pay one-half the difference between the redemption price (104) paid for bonds redeemed after March 1, 1942 and on or before March 1, 1943, and the purchase price, not including accrued interest in any case.

In connection with the sale of these bonds to the insurance companies it is proposed that Georgia Power Company will execute a supplemental indenture.

Of the \$34,231,000 principal amount of bonds, \$34,221,000 were acquired by Commonthwealth from Georgia Power Company at a cost stated to be \$32,253,400. The proceeds from the sale of the \$34,-221,000 principal amount of the bonds purchased from Georgia Power Company will amount to \$36,103,155, of which Commonwealth will receive \$32,253,400 equal to the alleged cost thereof to it and the balance of \$3,849,755 less expenses will be paid over to Georgia Power Company. Georgia Power Company will use such funds to assist it in financing its current construction program.

In addition, Commonwealth proposes to borrow \$17,000,000 from banks; the names of the banks and amounts of loans and interest rate to be filed by amendment. Such loans will be repaid in twenty equal semi-annual install-

Commonwealth, in accordance with its application on Form U-1, File No. 70-196, contemplates receiving approximately \$6,720,883 in cash or equivalent

The Commonwealth & Southern Cor-| ceive funds from the foregoing three sources as follows:

> of 034,231,000 Georgia Sala Mortgage Bonda
>
> Bank Loans
>
> Distribution from \_\_ \$32,253,950 17,000,000 Tennessee Utilities Corporation .... 6,720,883 55, 934, 833

> It is proposed to use this fund, plus \$356,234 of treasury funds to redeem on March 1, 1941 the following outstanding debentures assumed by Commonwealth:

l ———				
Nameofs	courity	Principal amount outstand- ing	Re- demp- tion price	Redemption cost 1
Southeastern Light Com Debenture A. dua Sep	pany 6% s. Series			
Fenn - Oblo Company bentures	Edicon 6% De- Series A.	\$23,233,000	110	\$42,224,669.60
due Nove 1910 Charles B. due Fo	mer and	5,721,500	104%	5,973,067.50
1959		7,750,660	105	8, 137, 500, 60
Total		51,877,500		50,341,067.50

1 Exclusive of accrued interest.

The company estimates, on the basis of such bank loan being at the rate of 21/4% per annum, that cash savings from the foregoing transactions over a 10-year period until 1951, will amount to \$12,451,005, such estimates not taking into account any income which might be derived from the use of the treasury funds or any income taxes due to the savings. At the end of ten years Commonwealth proposes to have paid all of such bank loans and estimates the savings thereafter as \$1,445,913 per year.

Commonwealth proposes to charge the \$4,483,567 premiums paid upon the redemption of the debentures to a deferred charge account and to apply the savings to amortize said account until it is extinguished.

Applicant has designated Sections 6, 7, and 12 of the Act and Rules U-12D-1 and U-12C-1 thereunder, as applicable to these transactions.

By the Commission.

[SEAL] ORVAL L. DUBOIS, Recording Secretary.

[F. R. Doc. 49-5481; Filed, December 10, 1949; 11:19 a. m.]

[File No. 70-207]

IN THE MATTER OF THE COMMONWEALTH & SOUTHERN CORPORATION

ORDER FOR HEARING

At a regular session of the Securities as distribution from Tennessee Utilities and Exchange Commission, held at its Corporation, a subsidiary company. Al- office in the City of Washington, D. C., together Commonwealth expects to re- on the 6th day of December, A. D. 1940.

<sup>&</sup>lt;sup>1</sup>5 F.R. 4252.

A declaration and application having Act of 1935 by The Commonwealth & Southern Corporation, and public notice having heretofore been given of the filing thereof, which notice set forth a summarized statement of the transactions proposed; and

It appearing to the Commission that it is appropriate and in the public interest and the interests of investors and consumers that a hearing be held with respect to said declaration and application and that said declaration shall not become effective or said application be granted except pursuant to further order of the Commission, and that at said hearing there be considered, among other things, the various matters hereinafter set forth;

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on December 19, 1940, at 10:00 A. M. at the offices of the Securities and Exchange Commission. 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearingroom clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

It is further ordered, That without limiting the scope of issues presented by said application or declaration particular attention will be directed at said hearing to the following matters and questions:

- (1) Whether the present claim of The Commonwealth & Southern Corporation against Georgia Power Company evidenced by the holding of \$34,231,000 principal amount of First Mortgage Bonds is, either as to its full amount or any portion thereof, a claim which should be subordinated to the rights of the holders of other First Mortgage Bonds and of Preferred Stock outstanding in the hands of the public.
- (2) Whether the price of 105½ proposed to be received from the sale of said bonds of Georgia Power Company is adequate and reasonable, and whether conditions should be imposed with respect to such sale for the purposes of insuring the maintenance of competitive conditions, the making of entries in accounts, or regarding the disclosure of interest, reasonableness, of expenses, or similar matters.

- been filed with this Commission pursuant Power Company adequately and properly have an interest. to the Public Utility Holding Company reflect and record the facts with respect to its property account, maintenance and depreciation.
  - (4) Specifically, whether and to what extent the property account of Georgia Power Company includes write-ups or other inflationary items.
  - (5) Whether the proposed sale of bonds of Georgia Power Company, and particularly the proposed modification of the indenture securing such bonds, constitutes the issuance or sale of a security or the alteration of rights of security holders within the requirements of Section 6 (a) of the Act.
  - (6) In the event that the declaration, as now filed or as may be amended, is to be construed as a declaration with respect to the issue or sale of securities or with respect to the alteration of rights of security holders thereof:
  - (a) Whether the securities proposed to be outstanding bear a reasonable relationship to the assets and earning power of Georgia Power Company;
  - (b) Whether the securities proposed to be outstanding are necessary or appropriate to the economical and efficient operation of the business of Georgia Power Company;
  - (c) Whether the terms and conditions of the proposed issue and sale are detrimental to the public interest or the interest of investors or consumers:
  - (d) What further steps, if any, should be taken by Georgia Power Company with respect to simplifying its corporate structure by refunding its outstanding debt or preferred stock, and whether any additional investment therein should be made by The Commonwealth & Southern Corporation; and
  - (e) Whether any such alteration of rights is detrimental to the public interest or the interest of investors or consumers. or should be permitted to become effective only subject to appropriate terms and conditions, particularly with respect to whether conditions should be imposed requiring the simplification of the security structure of Georgia Power Company and the reduction of outstanding debt of such company.
  - (7) Whether the proposed issuance and sale of \$17,000,000 of Notes by The Commonwealth & Southern Corporation is in accordance with the standards of section 7, and particularly whether:
  - (a) Such issuance is solely for the purpose of refunding an outstanding security of The Commonwealth & Southern Corporation; and
  - (b) The proposed Notes are reasonably adapted to the security structure and earning power of The Commonwealth & Southern Corporation and its holding company system, and whether the financing by the sale of such Notes is necessary or appropriate to the economical and efficient operation of any business in U-12F-1

(3) Whether the books of Georgia which said company may be engaged or

By the Commission.

[SEAL]

ORVAL L. DUBOIS. Recording Secretary.

[F. R. Doc. 40-5483; Filed, December 10, 1940; 11:20 a.m.]

[File No. 47-53]

IN THE MATTER OF HOUSTON NATURAL GAS CORPORATION, HOUSTON NATURAL GAS COMPANY, TEXAS NATURAL GAS UTILI-TIES, GULF CITIES NATURAL GAS COM-PANY, TEX-MEX NATURAL GAS COMPANY

ORDER RELATING TO HOLDING COMPANY STATUS 1

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 7th day of December, A. D. 1940.

The Commission having reserved jurisdiction by its order entered in the above matter on the 23rd day of May 1940, over the application and amendments thereto filed herein, insofar as it seeks the issuance of an order pursuant to section 5 (d) of the Public Utility Holding Company Act of 1935, declaring that Houston Natural Gas Corporation, a corporation organized under the laws of Delaware and a registered holding company, has ceased to be a holding company and that upon the taking effect of such order its registration shall cease to be in effect, until the filing of a certificate averring that all the steps of the program, as outlined in said application and amendments thereto have been completed; and

It appearing that a certificate, verified the 3rd day of December 1940, has been filed herein on the 5th day of December 1940, setting forth that all the steps of the program, as outlined in said application and amendments thereto have been completed and that the Houston Natural Gas Corporation (Delaware) has been formally dissolved as evidenced by the certificate of the Secretary of State of the State of Delaware, dated the 30th day of November 1940, annexed to the before mentioned verified certificate filed herein:

It is ordered, That Houston Natural Gas Corporation, the registered holding company above mentioned, has ceased to be and at this time is not, a holding company and that upon taking effect of this order its registration shall cease to be in effect.

This order shall become effective as of the 7th day of December 1940.

By the Commission.

[SEAL]

ORVAL L. DUBOIS, Recording Secretary.

[F. R. Doc. 40-5482; Filed, December 10, 1940; 11:19 a. m.]

<sup>&</sup>lt;sup>1</sup>Pursuant to Public Utility Holding Company Act of 1935, sections 10 (a) (2), 10 (a) (3) and 5 (d) and Rules U-12D-1 and